

Release
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**SUMMARY OF CASES ACCEPTED
DURING THE WEEK OF JULY 6, 1998**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#98-84 People v. Buchholz, S070035. (F027264; 62 Cal.App.4th 1196.)
Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents an issue, concerning the standard for assessing prejudice from a failure to instruct on an element, which is related to an issue addressed in People v. Flood, ___ Cal.4th ___ [filed July 2, 1998].

#98-85 DeBerard Properties, Ltd. v. Lim, S070347. (B109744; 62 Cal.App.4th 1251.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case concerns whether a borrower may waive the statutory protection against deficiency judgments on purchase money mortgages in a contract of forbearance entered into after a default on the original loan. (See Code Civ. Proc., § 580b.)

#98-86 People v. Lawrence, S070271. (B110417; 62 Cal.App.4th 1029, mod. 63 Cal.App.4th 447b.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents issues concerning consecutive sentences under the three strikes law which are related to those addressed in People v. Deloza, ___ Cal.4th ___ [filed July 9, 1998], and before the court in People v. Nelson, S053008 (see #96-73).

#98-87 People v. Pate, S069807. (F027554; 62 Cal.App.4th 683.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes an issue, concerning the requirements for conducting a parole search, which is related to an issue before the court in People v. Reyes, S058825. (See #97-53).

#98-88 Ramirez v. Yosemite Water Co., S070114. (B097099; 62 Cal.App.4th 912.) Petition for review after the Court of Appeal affirmed a judgment in a civil action. This case concerns whether a person, the bulk of whose time is spent delivering products but who is expected to engage in sales activity while doing so, is a covered employee or an exempt outside salesperson for purposes of state overtime pay requirements.

#98-89 Samuels v. Mix, S070599. (D023528; 63 Cal.App.4th 71.) Petition for review after the Court of Appeal reversed a judgment in a civil action. This case concerns who has the burden of proof as to when the plaintiff discovered or should have discovered the facts constituting legal malpractice for purposes of applying the statute of limitations.

#98-90 Thompson v. Department of Corrections, S071080. (A079924; 64 Cal.App.4th 104.) Petition for review after the Court of Appeal dismissed an appeal from an order issuing a preliminary injunction. This case concerns whether the Court of Appeal has jurisdiction over an appeal from a superior court order relating to the circumstances preceding an execution and, if it lacks such

jurisdiction, how such an appeal should be handled if it is erroneously processed to that court.

DISPOSITIONS

#98-7 Buckley v. California Coastal Com, S066022 was transferred to the Court of Appeal for reconsideration in light of Landgate, Inc. v. California Coastal Com, 17 Cal.4th 1006.

The following cases were dismissed and remanded to the Court of Appeal:

#96-104 Horwath Associates v. City of East Palo Alto, S054159.

#97-113 Merino v. San Diego County Council of the Boy Scouts
S062514.

#97-131 Yeaw v. Boy Scouts of America, S062749.

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